

tmd3574/mrm  
Return Date & Time:  
March 25, 2010 9:00 a.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X Chapter 13 Case No: 810-70485-AST

IN RE:

NOTICE OF MOTION

GASNER RACINE,

Debtor.

-----X

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Alan S. Trust, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York, Courtroom 960, on March 25, 2010 at 9:00 a.m., or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. § 1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than three (3) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York  
March 2, 2010

/s/ Marianne DeRosa  
MARIANNE DeROSA, TRUSTEE  
100 JERICHO QUADRANGLE, SUITE 208  
JERICHO, NY 11753  
(516) 622-1340

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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X Chapter 13 810-70485-AST  
IN RE:

GASNER RACINE,

APPLICATION

Debtor.

-----X

TO THE HONORABLE, ALAN S. TRUST, U.S. BANKRUPTCY JUDGE:

Marianne DeRosa, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on January 27, 2010, and, thereafter, Marianne DeRosa was duly appointed and qualified as Trustee.
2. The Debtor has failed to comply with 11 U.S.C. § 521(a)(1) and Bankruptcy Rule 1007(b)(1) and (6) in that the following required documents have not been filed:
  - a. copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition by the Debtor from any employer pursuant to 11 U.S.C. § 521(a)(1)(B)(iv)
  - b. copy of a federal income tax return or transcript for the most recent year 7 days before the first meeting of creditors pursuant to 11 U.S.C. § 521(e)(2)(A)(i)
3. Furthermore, the Debtor has failed to:
  - a. file a Chapter 13 Plan, pursuant to by 11 U.S.C § 1321 and Fed. R. Bankr. P. 3015(b)
  - b. provide the trustee with disclosure documentation as required by E.D.N.Y LBR 2003-1
  - c. appear and be examined at the § 341 Meeting of Creditors as required by 11 U.S.C. § 343
4. The time limits set forth in Interim Bankruptcy Rule 1007(c) have expired and no extension of time has been granted by the Court
5. The Debtor's failure to provide these items impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. § 1307(c)(1).
6. During the pendency of this bankruptcy estate, the Trustee has incurred costs and expenses in the ordinary course of administering this case and seeks reimbursement of \$350.00 to cover these expenses.

7. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. § 1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case, and granting the Chapter 13 Trustee the sum of \$350.00 to be deducted from the Debtor's net receipts, if any, for administrative costs and expenses incurred during the pendency of this case, and for such other and further relief as may seem just and proper.

Dated: Jericho, New York  
March 2, 2010

/s/ Marianne DeRosa  
Marianne DeRosa, Trustee

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
IN RE:

Chapter 13 Case No: 810-70485-AST

GASNER RACINE,

CERTIFICATE OF SERVICE  
BY MAIL

Debtor.

-----X

This is to certify that I, Matthew R. Matz , have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

GASNER RACINE  
152 WEST BARTLETT ROAD  
MIDDLE ISLAND, NY 11953

CRAIG HELLER, ESQ.  
270 ROUTE 109  
FARMINGDALE, NY 11735

This March 2, 2010

/s/Matthew R. Matz  
Matthew R. Matz, Paralegal  
Office of the Standing Chapter 13 Trustee  
Marianne DeRosa, Esq.  
100 Jericho Quadrangle, Suite 208  
Jericho, New York 11753  
(516) 622-1340

Index No: 810-70485-AST  
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IN RE:

GASNER RACINE,

Debtor.

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NOTICE OF MOTION, APPLICATION  
and  
CERTIFICATE OF SERVICE

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MARIANNE DeROSA, TRUSTEE  
100 JERICHO QUADRANGLE, SUITE 208  
JERICHO, NY 11753  
(516) 622-1340

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revised 03/09/06